HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.7329 OF 2007

Between:

G.V.Subbarao

. . .Petitioner

AND

Shri V.Suri Appa Rao and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri N.Guru Gopal

Counsel for respondents : Shri A.Satya Prasad
Special Government Pleader

12th April, 2007

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Per G.S.SINGHVI, CJ

In this petition, the petitioner has prayed for issue of a writ quo-warranto against respondent Nos.1 and 2, who are presently holding the posts of Secretary to Government (Legal Affairs) and Secretary to Government (Legislative Affairs and Justice), Law Department, Government of Andhra Pradesh respectively.

The only ground on which the petitioner has questioned the appointment of respondent Nos.1 and 2 is that they do not belong to the cadre of District and Sessions Judge Grade-I and, therefore, they are not eligible to be appointed as Secretaries to Government, Law Department.

Learned counsel for the petitioner invited our attention to Rule 3 of the Andhra Pradesh Secretariat Service Rules, 1999 (for short, 'the Rules') and argued that even though respondent Nos.1 and 2 are members of the cadre of District and Sessions Judge, they are not eligible to be appointed as Secretaries to Government, Law Department because on the date of their appointment, they were not holding the posts of District and Sessions Judge Garde-I.

Shri A. Satya Prasad, learned Special Government Pleader produced before the Court order Roc.No.2040/2007-B.SPL.
dated 3-4-2007 issued by the High Court to show that respondent Nos.1 and 2 have been appointed to Selection Grade Scale in the cadre of District and Sessions Judges with effect from 3-1-2006 and 1-7-2006 respectively and argued that they cannot be treated ineligible to be appointed as Secretary to Government (Legal Affairs) and

Secretary to Government (Legislative Affairs and Justice) because the cadre of District and Sessions Judges Grade-I is no longer in existence. He pointed out that with the implementation of Shetty Commission's recommendations, the District Judges' cadre has been divided into three grades i.e. Entry Level Scale, Selection Grade Scale and Super Time Scale and submitted that respondent Nos.1 and 2 should be treated eligible for appointment as Secretary to Government (Legal Affairs) and Secretary to Government (Legislative Affairs and Justice) respectively because the post of District Judge in Selection Grade Scale is equivalent to District Judge Grade-I.

We have considered the respective submissions and are convinced that the writ petition is liable to be dismissed. It is not in dispute that respondent Nos.1 and 2 are members of the cadre of District and Sessions Judges in the State of Andhra Pradesh. It is also not in dispute that vide order dated 3-4-2007 issued by the High Court, respondent Nos.1 and 2 have been appointed to Selection Grade Scale with effect from 3-1-2006 and 1-7-2006 respectively. Another fact on which there is no controversy between the parties is that after implementation of the Shetty Commission's recommendations, there does not exist the cadre of District and Sessions Judge Grade-I and the cadre of District and Sessions Judge has been divided into three grades i.e. Entry Level Scale (Rs.16750-Rs.20500), Selection Grade Scale (Rs.18750–Rs.22850) and Super Time Scale i.e. Rs.22850–24850).

In our view, as a sequel to implementation of the Shetty Commission's recommendations, the State Government should have amended the Rules. However, this omission is not sufficient to hold that respondent Nos.1 and 2 are not eligible to hold the posts of Secretary (Legal Affairs) and Secretary (Legislative Affairs and

Justice).

In the result, the writ petition is dismissed. However, we deem it proper to observe that the State Government will do well to suitably amend the Rules so as to avoid unnecessary controversies like the present one.

As a sequel to dismissal of the writ petition, WPMP.No.9339 of 2007 filed by the petitioner for early hearing of the petition is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

April 12, 2007

svs